

**Docket No. 01-0490
ICC Staff Exhibit 1.0**

DIRECT TESTIMONY

ROY A. KING

WATER DEPARTMENT

**FINANCIAL ANALYSIS DIVISION
ILLINOIS COMMERCE COMMISSION**

McHENRY SHORES WATER COMPANY

Docket No. 01-0490

September 2001

1 **Q. Please state your name and business address.**

2 A. My name is Roy A. King. My business address is 527 East Capitol Avenue, P.
3 O. Box 19280, Springfield, Illinois 62794-9280.
4

5 **Q. By whom are you employed and in what capacity?**

6 A. I am employed by the Illinois Commerce Commission (Commission) as an
7 Economic Analyst in the Water Department of the Financial Analysis Division
8 (FAD).
9

10 **Q. How long have you been employed by the Commission?**

11 A. Since August of 1979.
12

13 **Q. Will you please briefly state your qualifications?**

14 A. I graduated from Chicago Technical College in 1970 with a Bachelor of Science
15 degree in Architectural Engineering.
16

17 From 1970 to May 1979, I served with the U.S. Navy. My assignments included
18 those of Maintenance Supervisor, Instructor, Counselor for a Drug and Alcohol
19 Program, and managing a division of 30 men and its related equipment. Since

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1 August 1979, I have been employed by the Commission. Until mid-1982, I was
2 assigned to the Public Utilities Division, Engineering Department, Gas and
3 Electric Section as a Utility Engineer. My duties were to assist the Chief Gas
4 Engineer and the Chief Engineer in the administration of all engineering matters
5 associated with the regulation of privately owned gas and electric utilities in the
6 State of Illinois. During this period, my duties included (1) evaluating rate filings
7 and rules and regulations filings, (2) assisting the Consumer Services Division,
8 upon request, in handling investigations and correspondence relating to electric
9 and gas inquiries and complaints, (3) evaluating testimony presented by the
10 utilities and conducting cross-examination, (4) testifying on behalf of Staff in
11 applications for Certificates of Convenience and Necessity (Certificates), rate
12 proceedings and other formal cases which contain issues requiring review by the
13 Engineering Department, and (5) processing other work as directed by the Chief
14 Engineer.

15
16 In 1982, Staff functions were reorganized and I was assigned to the Water and
17 Sewer Section within the Engineering Department. My duties were very similar
18 to those previously described, except that I worked on matters associated with
19 water and sewer utilities.

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1 In November of 1992, engineering and rate matters for water and sewer utilities
2 were transferred to the Office of Policy and Planning (OPP) and I was assigned
3 to OPP. My duties include (1) evaluating rate schedule filings, and rules and
4 regulations filings, (2) assisting the Consumer Services Division, upon request, in
5 handling inquiries and complaints, (3) evaluating testimony presented by the
6 utilities and conducting cross-examination, (4) testifying on behalf of Staff in
7 applications for Certificates, rate proceedings, and other formal cases which
8 contain issues requiring review by OPP, and (5) reviewing cost-of-service studies
9 for the water and sewer utilities when so assigned.

10
11 In 1997, Staff's functions were reorganized and I was assigned to the Rates
12 Department within FAD (formerly Public Utilities Division). In 2000, Staff's
13 functions were reorganized forming a Water Department and I was assigned to
14 the Water Department. My duties are the same as those previously described.

15
16 Since being employed by the Commission, I have received an Associates Degree
17 in Business Administration from Lincoln Land Community College, Springfield,
18 Illinois, and in 1985, I received a Bachelor of Arts Degree in Management from
19 the University of Illinois, Springfield (formerly Sangamon State University),

1 Springfield, Illinois.

2
3 In addition, I have attended a number of courses regarding utility regulation,
4 including several sponsored by the National Association of Regulatory Utility
5 Commissioners (NARUC). I completed a one-week utility rate seminar co-
6 sponsored by the NARUC Water Committee and the University of Utah Center
7 for Continuing Education. I have also completed a course in Sewage Treatment
8 Plant Operations, which was sponsored by the Environmental Training Resource
9 Center at Southern Illinois University, and three courses in depreciation practices
10 that were sponsored by Depreciation Programs, Inc.

11
12 **Q. Are you a member of any professional organizations?**

13 A. Yes, I am a member of the Illinois Potable Water Operator's Association, Illinois
14 Section of the American Water Works Association and American Water Works
15 Association.

16
17 **Q. What is your assignment in this case?**

18 A. I was assigned by the Manager of the Water Department to examine McHenry
19 Shores Water Company's (MSWC, McHenry or Company) operations for

1 compliance with the Order entered in Docket No. 97-0607. This Order described
2 certain requirements to be completed on the facilities and records to be
3 maintained to comply with the Public Utilities Act (PUA) and the Illinois
4 Commerce Commission's Administrative Codes. Specifically, my responsibilities
5 include presenting testimony regarding MSWC's compliance with the Order in the
6 Docket No. 97-0607.

7
8 **Q. Could you briefly describe MSWC's service area and the water facilities**
9 **utilized to serve the area?**

A0 A. The Company is currently providing water service to approximately 525
11 residential customers in McHenry Shores Subdivision, which is contiguous to the
12 Village of McHenry in McHenry County, Illinois. MSWC is one of five utilities in
13 McHenry County owned by T. P. Mathews. The other affiliated utilities are:

14
15 Highland Shores Water Company;
16 Crystal Clear Water Company;
17 Northern Illinois Utilities, Inc.; and
18 Wonder Lake Water Company.
19

20 MSWC received its initial Certificate of Public Convenience and Necessity on
21 January 15, 1957, in Docket No. 43717.

1
2 The water distribution system for MSWC consists of two wells, one hydro
3 pneumatic storage tank for a capacity of 2,000 gallons, one 100,000 gallon
4 elevated storage tank, approximately 36,500 feet of four through eight inch
5 diameter mains, approximately 525 services, 525 meters, twenty six (26)
6 hydrants and five (5) flushing valves.
7

8 **Q. Could you describe the events that occurred leading to the Commission**
9 **entering the Order in Docket No. 97-0607?**

10 A. Yes, On January 10, 1997, Mr. Thomas P. Mathews, owner and operator of
11 MSWC, filed for an increase in revenues under the Commission's simplified rate
12 case procedures. In response to MSWC's notification to the customers about the
13 rate increase, the Consumer Services Division (CSD) began receiving letters and
14 phone calls from customers. As a result of those responses filed by the
15 customers, a public meeting was held on March 20, 1997.
16

17 The purpose of the public meeting was to allow customers the opportunity to
18 voice any concerns about issues regarding the Company. Mr. Mathews,
19 President, and Mr. Jeff Klaus, Vice President, and Mr. Clyde Kurlander, Legal

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1 Counsel, represented HSWC at the public meeting. Representatives from the
2 Illinois Environmental Protection Agency (IEPA) were present and also answered
3 questions. Approximately 200 customers served by MSWC attended. The
4 customers voiced anger and frustration about the quality of water, Company
5 management, service, and the lack of concern and action by the Commission
6 and IEPA.

7
8 As a result of the public meeting, the Commission initiated a Citation proceeding,
9 Docket No. 97-0607, which terminated the simplified rate case procedure and
10 commenced an investigation into its rates and non-compliance to the
11 Commission's rules and regulations. In June 1999, the Commission entered an
12 Order in Docket No. 97-0607, granting HSWC an increase in revenues and
13 requiring MSWC to make improvements to the facilities and records.

14
15 **Q. Can you describe the requirements set forth in the Order in Docket No. 97-**
16 **0607 and the time schedule that the Company was to complete upgrading**
17 **the facilities and records to comply with the Public Utilities Act (PUA) and,**
18 **the Illinois Commerce Commission's Administrative Codes.**

19 **A.** The following summary set forth the actions to be taken and the deadline to be

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completed. Note: All deadlines extend from the date of the Order (June 16, 1999).

	Requirement	Deadline	Completion
1.	Establish a meter-testing program on meters that are 10 yrs. Or older;	120 days	Not completed
2.	Participate in State-Wide One Call Notice (JULIE);	1 year	Completed
3.	Installation of meters to all customers;	1 year	Not Completed
4.	Quarterly reports indicating location of installed meters and remotes and documenting quantity of Customer refunds;	Quarterly	Not Completed
5.	Replace or repair 3 hydrants and correct the discrepancies on Schedule 3.03 (a) and (b);	1 year	Not completed
6.	Independent iron study investigating alternative water source or iron removal;	120 days	Completed 12/99 Revised 2/2000
7.	Poll customers for 3 choices: a. Existing water source non changes, b. New water source, or c. Existing water source with treatment	120 days	Not completed
8.	Loop Beech Street;	1 year	Not completed
9.	Install hydrants or flushing hydrants on uncapped mains;	ASAP	Not completed
10.	Establish 8" future main program;	--	No mains installed.
11.	a) Install alternative source of power for well house; and b) Moisture proof electrical receptacles; and		Not completed Completed

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12.	Establish and maintain continuing property ledger.	6 months	Not completed
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Q. Have you reviewed the Company's procedures for testing customer's meters?

A. 83 Ill Adm. Code Section 600.300 and the Order in Docket No. 97-0607, requires that 5/8" meters be tested on a 10-year cycle. During my inspection of the facilities, I did not see a meter testing bench or any evidence that the Company plans to establish a program to test meters on a regular basis or by any outside sources. The Company reported in their September 1999 initial report that they had arranged to have meters tested by an outside source when the customers request that their meters be tested. The Company did not provided any support in their May 15, 2001, filing for a rate increase under the Simplified Rate Procedures, that they have contracted any outside source for testing of meters.

Q. In your opinion, has MSWC instituted a meter replacement program or an installation program?

A. No. In MSWC's initial report of September 15, 1999, they stated that the "Company plans to replace all meters over ten years old during the years 1999 and 2000." Based on my discussion with Company personnel, it appears that

1 there is no program is in place to replace the meters in MSWC's water system.

2 The Company's filing for a rate increase, under the Simplified Rate Procedures,
3 further illustrated this. The filing did not include any contracts showing the
4 purchase of a large quantity of meters and their associated outside registers.

5
6 **Q. The Order in Docket No. 97-0607 requires MSWC to provide quarterly**
7 **reports to Staff regarding installation of meters and remote registers and**
8 **the amount of refunds with interest made to customers. Based on your**
9 **investigation, has MSWC made those reports available to Staff according to**
10 **the Order in Docket No. 97-0607?**

11 A. MSWC did make an initial report on September 15, 1999. However, the report
12 did not provide any details as to the locations of the meter installations or
13 customers receiving refunds. In May 2000, Mr. Raymond E. Pilapil, Manager of
14 the Water Department, and I met with Mr. Thomas P. Mathews. During that
15 meeting I ask Mr. Mathews why Staff had not received any reports about refunds
16 to customers. Mr. Mathews reported that the Company was experiencing
17 difficulty with their computer due to Y2K problems. Approximately one year later,
18 I requested the information again. This time it was reported that they had
19 upgraded their computers and the information I was requesting was not readily

1 available. They would check with the manufacturer to see how they could gather
2 the information. As of this date, I have not received any information from the
3 Company.

4
5 **Q. In your investigation in this proceeding, did you reviewed the Company**
6 **procedure that customer's meters would be read at least every second**
7 **billing period?**

8 A. Based on Staff's discussion with MSWC's personnel, it was reported that they
9 had a program in place. However, at the time of Staff's inspection, the Company
10 had not read meters for approximately 3 billing cycle. Therefore, the customers
11 were experiencing bills that had two or more consecutive estimates.

12
13 **Q. In the above answer, you indicated that the Company had estimated**
14 **customers bills two or more consecutive times. In your opinion, does**
15 **estimating bills two or more consecutive times comply with 83 Ill. Adm.**
16 **Code Part 280, "Procedures for Gas, Electric, Water, Sanitary Sewer**
17 **Utilities Governing Eligibility for Service, Deposits, Payment Practices and**
18 **Discontinuance of Service?"**

19 A. No. Based on my experience with the Commission, it appears that MSWC is in

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1 violation of 83 Ill. Adm. Code 280.80, "Estimated Bills." Part 280.80 stipulates
2 that all utilities shall make an actual meter reading at least every second billing
3 period. Estimates may be used if the utility has taken appropriate and
4 reasonable measures to read the meters, such as making an appointment with
5 the customer, scheduling readings other than normal business hours, or
6 providing postal cards for customer readings.

7
8 **Q. Since the Order was issued in Docket No. 97-0607, are you aware of any**
9 **petition by MSWC requesting or the Commission granting MSWC a**
10 **variance from Part 280.80?**

11 **A.** No.

12
13 **Q. Have you found other related problems concerning MSWC billing**
14 **practices?**

15 **A.** Yes, it was reported that Mr. Mathews charged several customers a \$300 charge
16 to attach to the water system. The Commission has neither approved this charge
17 nor is this charge in MSWC's currently filed tariffs. Charging fees that have not
18 been approved by the Commission is in violation of Section 9-240 of the Public
19 Utilities Act (220 ILCS 5/9-240), which states in part:

1 “No public utility shall charge, demand, collect or receive a
2 greater or less or different compensation for any product, or
3 commodity furnished or to be furnished, or for any service
4 rendered or to be rendered, than the rates or other charges
5 applicable to such product or commodity or service as
6 specified in its schedules on file and in effect at the time
7 except as provided in Section 9-104...”
8
9

10 **Q. Have you reviewed the Company’s operations?**

11 A. Yes, I have personally visited and reviewed the Company’s operations and
12 facilities on a number of occasions since 1993.
13

14 **Q. Did you inspect MSWC’s water facilities in connection with this case?**

15 A. I inspected MSWC’s water treatment facilities, valves and hydrants as a follow-up
16 to the Order in Docket No. 97-0607.
17

18 **Q. Having inspected the water facilities, were there any other deficiencies**
19 **found concerning the reliability of service or safety related items?**

20 A. Yes, I found the following deficiencies:

21 a) The following hydrants were found to still be in need of repair or replacement:

22 No. 11 – Hydrant does not operate;
23 No. 16 – Hydrant upper barrel crack; and
24 FV. 21 – Copper tubing utilized as riser.
25

26 b) Dead-end mains, where valves were located, did not have any type of flushing

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1 hydrant, some mains were uncapped and when the valves were opened water
2 was discharged underground.
3

4 **Q. Are items (a) and (b) above the same items reported by you in Docket 97-**
5 **0607, in which the Commission ordered MSWC to replace or repair?**

6 A. Yes, they are.
7

8 **Q. Do you consider item (b) a safety hazard that should be repaired as soon as**
9 **possible?**

10 A. Yes I do for the following reason. If a main break should occur during the
11 flushing cycle, it is possible a vacuum could be created on the system. This
12 could pull dirt and other contaminants into the water supply thus contaminating
13 the water and possibly violating 83Ill. Adm. Code Section 600.210. Section
14 600.210 requires a utility to furnish a safe water supply suitable for drinking and
15 free of any hazards to health.
16

17 **Q. I am showing you a document marked for identification as ICC Staff Exhibit**
18 **1.00, Schedule 1.01, and ask you to identify these documents.**

19 A. Schedule 1.01 is a two-page summary of my inspection of the Company's
20 hydrants.

1
2 **Q. On Schedule 1.01, it appears that there were other minor discrepancies**
3 **with the hydrants in MSWC's system that you found besides item (a), such**
4 **as missing hydrant cap chains and hydrants needing painting. Are you**
5 **recommending that these discrepancies be repaired?**

6 A. Yes, I am still recommending these minor discrepancies be repaired. These
7 discrepancies still exist, as found and reported in Docket No. 97-0607.
8

9 **Q. Based on the Order in 97-0607, MSWC was to install an additional main to**
10 **loop Beach Street and to install alternative source of power for the well**
11 **house. Has this been completed?**

12 A. Based on my understanding the proposed loop on Beach Street and alternative
13 source of power to the well house has not been completed. This is further
14 illustrated in the Company's filing for a rate increase, under the Simplified Rate
15 Procedures. The filing did not include any contracts showing that bids were not
16 issued to construct the main, nor has the Company filed to seek Commission's
17 approval for loans to pay for the installation of this loop or for alternative power
18 source.
19

1 **Q. Based on the Order in 97-0607, MSWC was to survey the customers**
2 **concerning the three options available to them concerning iron removal**
3 **equipment. Has this been completed?**

4 A. No. The study concerning the different options available for improving the water
5 quality in McHenry's service area was completed in December, 1999 and revised
6 in February 2000. However, based on the information I have received from the
7 Company, it appears that the Company did not provide a survey to the customers
8 explaining the options and letting them vote on whether to improve the quality of
9 water related to iron content.

10
11 **Q. Since the Commission granted MSWC a rate increase of \$19,525 (22.5%**
12 **increase) in June 1999, have any events occurred that affects the**
13 **Company's financial status?**

14 A. Yes. On or about late October or earlier November 1999, MSWC filed for
15 bankruptcy. Based on my understanding, the Company is still in bankruptcy.

16
17 **Q. Have you completed your investigation into MSWC's operation and**
18 **financial status concerning this docket?**

19 A. No, Schedule 1.02 is Staff's data request mailed to Mr. Mathews requesting
20 additional information concerning continuing property records, electric bills,

1 missing quarterly reports and billing practice. The Company was to respond to
2 the data requests by August 31, 2001. As of September 14, 2001, Staff has not
3 received those responses.

4
5 **Q. Has MSWC established Continuing Property Records as per the Order in**
6 **Docket No. 97-0607?**

7 A. No. Based on my discussion with Company personnel, it appears that
8 Continuing Property Records have not been established.

9
10 **Q. Based on the above reasons, do you have a recommendation to the**
11 **Commission concerning the status of McHenry Shores Water Company,**
12 **owned and operated by Mr. Mathews?**

13 A. Yes, I am recommending to the Commission that Section 4-502 of the PUA be
14 applied in this instance. Under Section 4-502 (a), the Commission may provide
15 for the acquisition of a small public utility or telecommunications carrier by a
16 capable public utility or telecommunications carrier, if the Commission, after
17 notice and an opportunity to be heard, determines one or more of the following:

- 18
19 (1) The small public utility or telecommunications carrier is
20 failing to provide safe, adequate, or reliable service;
21 (2) The small public utility or telecommunications carrier no

- 1 longer possesses sufficient technical, financial, or
2 managerial resources and abilities to provide the service
3 Or services for which its certificate was originally granted;
4 (3) The small public utility or telecommunications carrier has
5 been actually or effectively abandoned by its owners or
6 operators;
7 (4) The small public utility or telecommunications carrier has
8 defaulted on a bond, note, or loan issued or guaranteed by a
9 department, office, commission, board, authority,
10 or other unit of State government;
11 (5) The small public utility or telecommunications carrier has
12 willfully failed to comply with any provision of this Act, any
13 other provision of State or federal law, or any rule,
14 Regulation, order, or decision of the Commission; or
15 (6) The small public utility or telecommunications carrier has
16 willfully allowed property owned or controlled by it to be used
17 in violation of this Act, any other provision of State or federal
18 law, or any rule, regulation, order, or decision of the
19 Commission.

20
21 Therefore, for the reasons discussed above, it appears that the McHenry
22 does not meet the requirements stated in provisions (1), (2) and (5) of
23 Section 4-502.

24
25 **Q. If the Commission should order the acquisition of MSWC by a capable**
26 **public utility, what utilities are in the vicinity, which are capable of**
27 **complying with the order in Docket No. 97-0607 and improving overall**
28 **service to the customers.**

29 **A.** Of the investor-owned utilities that the Commission regulates, it would appear to

1 be Citizens Utilities Company of Illinois, Consumers Illinois Water Company and
2 Utilities, Inc.

3

4 **Q. Does this conclude your Direct Testimony?**

5 **A.** Yes, it does.